



To the Honorable Council
City of Norfolk, Virginia

October 9, 2012

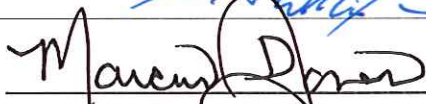
From: John M. Keifer, Director of Public Works

Subject: Right of Entry Agreement
With Norfolk Southern for Intercity
Passenger Rail.

Reviewed: Ronald H. Williams, Jr., Assistant City
Manager

Ward/Superward: 3/7

Approved:



Marcus D. Jones, City Manager

Item Number:

R-10

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk, Department of Public Works

III. **Description**

This agenda item is required to support construction of a new intercity passenger rail station adjacent to Norfolk Southern's Lamberts Point main rail track and spur and new station platform in Harbor Park. The ordinance authorizes the City Manager to negotiate and execute a right of entry agreement with Norfolk Southern Railway Company to allow the City to access Norfolk Southern's property for the purpose of coordination and construction of a new train station in Harbor Park lot "D".

IV. **Analysis**

Norfolk Southern currently owns the parcel supporting the new station platform for intercity passenger rail in Harbor Park, its new rail spur and property east of Harbor Park Lot "D". Amtrak will utilize Norfolk Southern's rail system for new passenger rail service to and from Harbor Park. A right of entry from Norfolk Southern is required to access the new station platform (owned by Norfolk Southern) and construct a new station facility adjacent to Norfolk Southern property. This ordinance authorizes the City Manager to negotiate and execute a right of entry agreement with Norfolk Southern in connection with the City's intercity passenger rail project station construction. This agreement will allow the City of Norfolk and its contractors to access Norfolk Southern property for site surveys, utility connections, pedestrian access connections, and general construction and coordination associated with the new intercity passenger rail station.

This agreement has no impact to Harbor Park parking spaces and access to Harbor Park parking lots. Also, timing and sequences associated with planned construction will not disrupt Tide home games, parking or light rail operations, Norfolk Southern's main freight operations, or new Amtrak passenger rail service. The new train station will be constructed by the City on City property and the right of entry agreement allows for access to adjacent property owned by Norfolk Southern.

V. Financial Impact

There will be no impact to the City Budget for this ordinance or support of intercity passenger rail. The Department of Rail and Public Transportation (DRPT) is the sponsor of this project with allocated funds to connect Norfolk to Washington, DC. through modifications of both Norfolk Southern and CSX existing rail lines. The City is the lead for the construction of the new passenger rail station and this right of entry agreement has no financial impact.

VI. Environmental

N/A

VII. Community Outreach/Notification

Increased awareness of this project will be coordinated once associated parcels are identified and construction schedules and details are confirmed.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter has been coordinated with the Department of Public Works, and the City Attorney's Office.

Supporting Material from the Department of Public Works:

- Ordinance
- Exhibit A (Agreement)
- Exhibit B (map)

34 William E. Saman
Office of the City Attorney

NORFOLK, VIRGINIA

By John M. Kuf
DEPT.

ORDINANCE No. 44,865

R-10

AN ORDINANCE APPROVING A RIGHT OF ENTRY AGREEMENT WITH
NORFOLK SOUTHERN RAILWAY COMPANY.

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the terms and conditions of a Right of Entry Agreement (Agreement) between the Norfolk Southern Railway Company ("Railway") and the City of Norfolk ("City"), a copy of which is attached hereto as Exhibit A, are hereby approved.

Section 2:- That the City Manager, and other proper officers of the City, are authorized to execute the Agreement on behalf of the City.

Section 3:- That the City Manager is further authorized to correct, amend or revise the Agreement as he may deem necessary in order to carry out the purposes as stated therein.

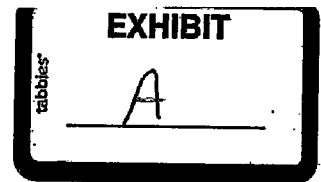
Section 4:- That this ordinance shall be in effect from and after the date of its adoption.

Adopted by Council October 9, 2012
Effective October 9, 2012

TRUE COPY
TESTE:

R. BRECKENRIDGE DAUGHTREY, CITY CLERK

BY: _____
DEPUTY CITY CLERK



THIS RIGHT OF ENTRY AGREEMENT ("Agreement"), made this ____ day of August, 2012, by and between the **NORFOLK SOUTHERN RAILWAY COMPANY**, a Virginia corporation ("Railway"), Grantor, and, **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia ("City"), Grantee.

WITNESSETH:

WHEREAS, Railway owns certain property located south of Park Avenue, adjacent to lot "D," and west of the existing Norfolk Southern Lambert's line tracks, which property is more particularly described in Exhibit A and shown on Exhibit B (collectively the "Property"); and

WHEREAS, in connection with the intercity passenger rail project, designed to provide passenger rail service from Norfolk to Washington, D.C., City requires access to the Property for certain purposes; and

WHEREAS, Railway is willing to permit City to enter upon the Property for the purposes and upon the terms and conditions set forth herein;

NOW, THEREFORE, Railway hereby grants to City, and its contractors, subcontractors, consultants, sub-consultants or any other persons, corporations or legal entities retained by City in connection with the work contemplated herein, the right to enter upon the Property upon the following terms and conditions:

1. City shall be permitted to enter upon the Property for the following purposes:
 - a. To conduct surveys of the new station site, including Miss Utility identification of existing utilities.
 - b. To coordinate private and public utility tie-ins (electric/water/sewer).
 - c. To coordinate the location and construction of the building, sidewalk, stairs and ramps with respect to the existing station platform on Railway's property.

- d. To coordinate the installation of data communication cable infrastructure.
- e. To extend continuous platform and station area lighting.
- f. To install electrical and other utility services and meters.
- g. To coordinate safety and ADA compliancy with respect to such things as railings, ramps, tactile strips and portable elevator units.
- h. To install signage to meet with Amtrak and City Code requirements.

2. The permission granted hereby shall be for such period of time as is necessary for the completion of the intercity passenger rail project, but in no event longer than twenty-four months commencing August 15, 2012.

3. Railway shall have access to the Property at all times, but Railway shall conduct its activities on, and with respect to, the Property in such manner as not to unduly conflict or interfere with the use of the Property by the City.

4. Railway shall have the right to make periodic inspections of the manner in which City is using the Property and City shall exercise reasonable care in the performance of its work.

5. City shall coordinate its entry upon the Property with the appropriate Railway officials, as may be appropriate.

6. Any costs associated with violations of the law, including, but not limited to, remediation, clean up costs, fines, administrative or civil penalties or charges, and third party claims imposed on the Railway by any regulatory agency or by any third party as a result of the non-compliance with applicable federal, state or local environmental laws and regulations or nuisance statutes by City, or by subcontractors, consultants, sub-consultants, or any other

persons, corporations or legal entities retained by City in connection with the work contemplated herein, shall be the responsibility of the City.

7. City undertakes to act and will continue to act as a self-insurer of its liabilities, if any, and will pay all sums which it shall become legally obligated to pay in connection with the Agreement. City will require any contractor that it engages to perform work at the project site to maintain workers' compensation insurance as required by statute, and commercial general liability insurance, and automobile liability insurance in a form and with limits that are reasonably acceptable to Railway.

8. Railway shall not be responsible or liable for injuries to persons, including death or damage to property, when such injuries or damages are caused by or result from City's use of the Property under the terms of this Agreement and are not solely due to the negligence of Railway.

9. This Agreement shall not be assigned by City to any other party or entity.

10. Prior to the commencement of any construction work by City, or any of its subcontractors, a full set of construction plans shall be submitted to the appropriate officials of Railway, as may be appropriate, for their review.

11. Upon completion of all construction work permitted by this Agreement, City shall leave the Property in a condition reasonably acceptable to Railway.

12. In exercising the rights granted hereby, and undertaking activity pursuant to this Agreement, City shall act in accordance with the applicable laws of the Commonwealth of Virginia and any other governmental body, state or federal, having jurisdiction over such matters.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on their behalf by their duly authorized representative as of the day and year first above written.

(SIGNATURE PAGES TO FOLLOW

NORFOLK SOUTHERN RAILWAY COMPANY

By: _____ [SEAL]

Title: _____

STATE OF VIRGINIA

CITY OF _____, to-wit:

I, _____, a Notary Public of the City of _____, State of _____, whose term of office expires on the ____ day of _____, 200____, do hereby certify that _____ of Norfolk Southern Railway Company, whose name is signed to the foregoing Right of Entry Agreement, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this _____ day of August, 2012.

Notary Public

Registration No _____

CITY OF NORFOLK

By: _____ [SEAL]
City Manager

ATTEST:

City Clerk

STATE OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of Norfolk, in the State of Virginia, whose term of office expires on the ____ day of _____, 200____, do hereby certify that Marcus D. Jones, City Manager, and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing Right of Entry Agreement, have acknowledged the same before me in my City and State aforesaid.

Given under my hand this _____ day of August, 2012.

Notary Public

Registration No. _____

APPROVED AS TO CONTENTS:

Director of Public Works

APPROVED AS TO FORM
AND CORRECTNESS:

Deputy City Attorney

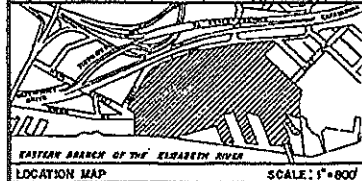
EXHIBIT A

Right-of-Entry Easement Norfolk Southern Railway At Harbor Park

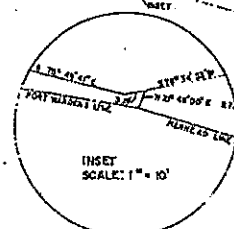
All that certain lot, piece or parcel of land situate, lying and being in the City of Norfolk, Virginia, said parcel being further described as follows: That area bounded on the east by the centerline of the west bound track of Norfolk Southern Railway, on the south by the north shore of Elizabeth River, on the west by a parcel labeled "Parcel 1B," on the west also by a parcel labeled "Parcel 1" and on the north by the southern line of Park Avenue, said track, parcels and river being shown on a plat entitled, "Plat of Property of Farmers Export Co. to Be Conveyed to Peck Iron and Metal Company, Inc.," said plat being duly recorded in the Clerk's Office of the Circuit Court of the City of Norfolk, Virginia, in Map Book 34 at Page 11.

August 15, 2012

CURVE DATA		DATA		DATA		DATA		DATA		DATA	
NO.	BEARING	DELTA	TANGENT	CHORD	ARC	CHORD	ARC	CHORD	ARC	CHORD	ARC
1	N 113° 15' 00" E	113° 15' 00"	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15
2	N 113° 15' 00" E	113° 15' 00"	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15
3	N 113° 15' 00" E	113° 15' 00"	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15
4	N 113° 15' 00" E	113° 15' 00"	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15
5	N 113° 15' 00" E	113° 15' 00"	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15
6	N 113° 15' 00" E	113° 15' 00"	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15
7	N 113° 15' 00" E	113° 15' 00"	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15
8	N 113° 15' 00" E	113° 15' 00"	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15
9	N 113° 15' 00" E	113° 15' 00"	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15
10	N 113° 15' 00" E	113° 15' 00"	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15	113.15



JONES COLD STORAGE CORPORATION
66,110,130
N 113° 15' 00" E
113.15



EASTERN BRANCH OF THE ELIZABETH RIVER

PERMANENT EASEMENT TO BE RETAINED BY NORFOLK AND WESTERN RAILWAY COMPANY.

NOTES
BEARINGS, DISTANCES AND COORDINATES ARE
BASED UPON THE VIRGINIA STATE PLANE COORDINATE
SYSTEM, LARGEST AND NORTH ZONE, AND ARE
BASED UPON THE PUBLISHED PORTIONS OF U.S.S.
TRIANGULATION STATIONS "PLAZA 191" AND
"CATHOIC 191".
CONVERSION SCALE FACTOR = 0.99999977

MAY 22, 1979
PLAN OF
PROPERTY OF
FARMERS EXPORT CO.
TO BE CONVEYED TO
PECK IRON AND METAL COMPANY, INC.
NORFOLK, VIRGINIA

SCALE: 1" = 100'
MAY 22, 1979
SALDWIN AND OREGO, LTD.
ENGINEERS-PLANNERS-SURVEYORS
NORFOLK-W. BEACH-ALEXANDRIA
VIRGINIA

